

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
Amendment of Section 73.202(b)) MB Docket No. 03-144
Table of Allotments) RM-10733
FM Broadcast Stations) RM-10788
(Gunnison, Colorado)) RM-10789

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To: Marlene H. Dortch, Office of the Secretary
Attn: Assistant Chief, Audio Division
Media Bureau

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**REPLY COMMENTS**

KAGM, LLC, licensee of Station KAGM(FM), Strasburg, Colorado, by its counsel, hereby files Reply Comments, pursuant to the Commission's Public Notice, Report No. 2629 (September 16, 2003), in the above-captioned proceeding.

1. This proceeding was initiated by a petition for rule making seeking to allot Channel 299C3 to Gunnison, Colorado (the "Gunnison Proposal"). The Public Notice announced the filing of two counterproposals in this proceeding: (i) a proposal of KAGM, LLC's predecessor, seeking, *inter alia*, to change the community of license of KAGM from Strasburg to Greenwood Village, Colorado (the "KAGM Proposal") , and (ii) a proposal of Mayflower-Crawford Broadcasters ("MCB"), seeking, *inter alia*, the allotment of Channel 272C2 at Crawford, Colorado (the "MCB Proposal"). While the KAGM Proposal does not conflict with the original Gunnison Proposal, it does conflict with the MCB Proposal. Specifically, MCB's proposal to allot channel 272C2 at Crawford conflicts with KAGM's proposal to allot Channel 272A at Breckenridge, Colorado. Accordingly, in furtherance of its

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mandate under Section 307(b) of the Communications Act, the Commission added the KAGM Proposal to this proceeding and is treating it as a counterproposal.¹

2. In *Revision of FM Assignment Policies and Procedures*, 90 F.C.C.2d 88 (1982), the Commission set forth its priorities for evaluating competing proposals. Those priorities are: (1) first full-time aural service; (2) second full-time service; (3) first local service; and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3). *Id.* In this case, the Gunnison proposal furthers priority (4), since Gunnison already has local service and no white or gray area would be served. Both the MCB and the KAGM Proposals further priority (3), because each would provide a first local service. The MCB Proposal offers a first local service to Crawford, Colorado, with a 2000 U.S. Census population of 366. The KAGM Proposal offers a first local service to Greenwood Village, Colorado, with a 2000 U.S. Census population of 11,035. In deciding between proposals under priority (3), the Commission compares the population of the respective communities. See *Blanchard, Louisiana and Stephens Arkansas*, 10 FCC Rcd 9828, 9829 (1995); *Rose Hill, North Carolina, et al.*, 11 FCC Rcd 21223, 21231 (1996), *aff'd*, 15 FCC Rcd 10739 (2000), *app. for review denied*, 16 FCC Rcd 15610 (2001). Accordingly, the KAGM Proposal, which would bring a first local service to the larger community of Greenwood Village, is favored over the MCB Proposal. Additionally, since the KAGM Proposal does not conflict with the Gunnison Proposal, Gunnison may receive its fourth local service as the petitioner requested.

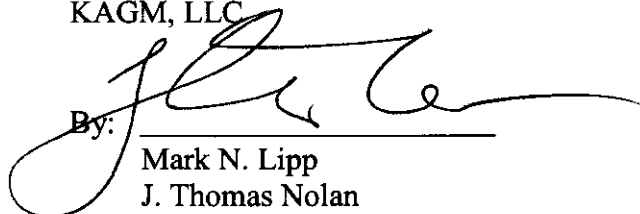
3. The grant of the KAGM Proposal offers additional public interest benefits, as set forth in KAGM's Petition for Rule Making. It will result in a net gain in population served of 2,812,152, and permit greatly expanded operation of KBRU-FM at Strasburg, Colorado on

¹ See 47 U.S.C. § 307(b) (the Commission shall "provide a fair, efficient, and equitable distribution of radio service" among the various communities).

Channel 269C. It will require channel changes at Eagle, Colorado, and Laramie, Wyoming, to which the respective licensees have furnished their consent, and transmitter site changes at Breckenridge, Colorado and Loveland, Colorado, also with the consent of the affected licensees. KAGM has entered into reimbursement agreements with each affected licensee and will reimburse them for their expenses in making the requested changes. For the foregoing reasons, the Commission should grant the KAGM Proposal. If the proposal is granted, KAGM, LLC, as the licensee of KAGM, will file an application for Channel 272A at Greenwood Village, Colorado, and construct and operate the facilities.

Respectfully submitted,

KAGM, LLC

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October 1, 2003

CERTIFICATE OF SERVICE

I, Lisa Balzer, a secretary in the law firm of Vinson & Elkins, do hereby certify that on this First day of October, 2003, I caused copies of the foregoing Reply Comments to be mailed by first class U.S. mail, postage prepaid, or hand delivered, to the following:

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